

Message Text

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E.O. 11652: N/A

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SUBJECT: DEPARTMENT OF LABOR REQUEST FOR INFORMATION
ON MILITARY UNIONS

REF: STATE 163207

1. THE UNIONIZATION OF THE ARMED FORCES IN THE FRG
IS PART OF THE OVERALL SYSTEM FOR PUBLIC EMPLOYEE
RELATIONS WITH THE GOVERNMENT IN THE FRG. THIS
SYSTEM IS DESCRIBED IN THE BOOK "PUBLIC EMPLOYEE
RELATIONS IN WEST GERMANY" BY WILLIAM H. MCPHERSON,
PUBLISHED BY THE INSTITUTE OF LABOR AND INDUSTRIAL
RELATIONS OF THE UNIVERSITY OF MICHIGAN, WAYNE STATE
UNIVERSITY, 1971, LIBRARY OF CONGRESS CATALOG CARD
NO. 77634396. ANOTHER SOURCE OF INFORMATION ON
COLLECTIVE BARGAINING INVOLVING THE UNIFORMED MILITARY
SERVICES IN THE FRG, SWEDEN, AUSTRIA AND NORWAY
IS A REPORT PREPARED FOR THE US NAVY BY UNIVERSITY OF
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PENNSYLVANIA WHARTON SCHOOL, PROFESSORS ESRA S. KRENDEL

AND WILLIAM GOMBERG. THE AUTHORS OF THESE REPORTS RECEIVED EXTENSIVE ASSISTANCE AND SUPPORT FROM THE EMBASSY ON THESE STUDIES. (UNFORTUNATELY, WE HAVE NOT RECEIVED A COPY OF THE KRENDEL/GOMBERG REPORT). THE ABOVE MENTIONED STUDIES MAY BE USEFUL IN ANSWERING THE QUESTIONS IN THE REFTTEL.

2. BACKGROUND: IN THE FRG, THE GRADUAL DEVELOPMENT OF THE UNIONIZATION OR REPRESENTATION OF MILITARY PERSONNEL BY PROFESSIONAL MILITARY ASSOCIATIONS, WHICH STARTED OVER TWO DECADES AGO SHORTLY AFTER THE BUNDESWEHR WAS FORMED, REPRESENTS AN EXTENSION OF THE OVERALL SYSTEM OF PUBLIC EMPLOYEE RELATIONS IN THE FRG.

3. IN THE FRG, PUBLIC EMPLOYEES INCLUDE FOUR CATEGORIES OF PERSONNEL: A) PERMANENT CIVIL SERVANTS WITH LIFETIME APPOINTMENTS (BEAMTE); B) MONTHLY SALARIED PERSONNEL (ANGESTELLTE); C) HOURLY PAID PERSONNEL (ARBEITER), AND D) ARMY, AIRFORCE AND NAVY UNIFORMED MILITARY PERSONNEL.

4. IN THE AREA OF COLLECTIVE BARGAINING ON WAGES AND WORKING CONDITIONS, THE FEDERAL, STATE AND LOCAL GOVERNMENTS JOINTLY NEGOTIATE AT THE NATIONAL LEVEL WITH THE APPROPRIATE PUBLIC SECTOR UNIONS, INVOLVING PRINCIPALLY THE GERMAN PUBLIC SERVICE EMPLOYEES UNION (OETV), THE GERMAN SALARIED EMPLOYEES UNION (DAG), AND A FEW OTHER ORGANIZATIONS, SUCH AS THE INDEPENDENT CIVIL SERVANTS ASSOCIATION (BEAMTENBUND) AND THE INDEPENDENT POLICE TRADE UNION (GDP). THESE NEGOTIATIONS OCCUR ANNUALLY (USUALLY IN JANUARY AND FEBRUARY), AND RESULT IN COLLECTIVE CONTRACTS COVERING MONTHLY SALARIED PERSONNEL (ANGESTELLTE) AND HOURLY PAID PERSONNEL (ARBEITER). THESE CATEGORIES OF PERSONNEL HAVE THE RIGHT TO STRIKE.

5. AFTER THESE WAGE AND WORKING CONDITIONS AGREEMENTS FOR SALARIED AND HOURLY PAID PERSONNEL HAVE BEEN CONCLUDED, THE RESULTING WAGE INCREASES AND OTHER IMPROVEMENTS TO MEET THE SPECIAL NEEDS OF PERMANENT

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CIVIL SERVANTS (BEAMTE) ARE EXTENDED BY BUNDESTAG ACTION TO BEAMTE AND UNIFORMED MILITARY PERSONNEL, WHO DO NOT REPEAT NOT HAVE THE RIGHT TO STRIKE.

6. IN THE AREA OF LABOR RELATIONS WITH EMPLOYEES ON MATTERS OTHER THAN COLLECTIVE CONTRACTS, PUBLIC EMPLOYEES ARE REPRESENTED BY PERSONNEL COUNCILS ELECTED BY ALL EMPLOYEES REGARDLESS OF WHETHER THEY ARE UNION

MEMBERS OR NOT. THE FUNCTIONS OF THESE PERSONNEL COUNCILS AND THE ELECTION PROCEDURES ARE DEFINED IN DETAIL BY THE PERSONNEL REPRESENTATION LAW (PERSONALVERTRETUNGSGESETZ). (THE FUNCTIONS OF THESE PERSONNEL COUNCILS FOR GOVERNMENT EMPLOYEES CLOSELY PARALLEL THOSE OF WORKS COUNCILS IN PRIVATE INDUSTRY DEFINED

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IN THE INDUSTRIAL RELATIONS LAW (BETRIEBSVERFASSUNGSGESETZ).) THE ELECTED MEMBERS OF THESE PERSONNEL COUNCILS MAY OR MAY NOT BE UNION MEMBERS. THUS, IN THE EQUIVALENT OF PRIVATE INDUSTRY, PLANT OR FIRM LEVEL LABOR RELATIONS IN THE GOVERNMENT SECTOR, UNIONS DO NOT REPRESENT EMPLOYEES DIRECTLY IN SUCH MATTERS AS EMPLOYEE GRIEVANCES. THIS FUNCTION IS PERFORMED BY THE LEGALLY SEPARATE INSTITUTION OF THE PERSONNEL COUNCILS.

IN CASE GRIEVANCES OR DISPUTES BETWEEN PERSONNEL COUNCILS AND RESPONSIBLE GOVERNMENT ADMINISTRATIVE OFFICES CANNOT BE RESOLVED IN DIRECT NEGOTIATIONS, PERSONNEL COUNCILS DO NOT HAVE THE RIGHT TO STRIKE. INSTEAD, THE PERSONNEL REPRESENTATION LAW PROVIDES FOR APPEAL TO A 7-PERSON ARBITRATION COMMISSION (EINIGUNGSSTELLE) AT THE NATIONAL LEVEL. BOTH SIDES HAVE EQUAL REPRESENTATION WITH AN IMPARTIAL CHAIRMAN SELECTED BY BOTH

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PARTIES. IN CASE AGREEMENT CANNOT BE REACHED ON THE SELECTION OF AN IMPARTIAL CHAIRMAN, THE CHIEF JUDGE OF THE FEDERAL ADMINISTRATIVE COURT DESIGNATES THE CHAIRMAN. THE DECISION OF THE ARBITRATION COMMISSION ON DISPUTES IS BINDING ON BOTH PARTIES. HOWEVER, THE QUESTION OF PROPER APPLICATION OF GOVERNMENTAL PERSONNEL LAWS AND REGULATIONS OR THEIR INTENT MAY BE APPEALED BY EITHER SIDE TO THE ADMINISTRATIVE COURTS.

7. THE LABOR RELATIONS SYSTEM FOR UNIFORMED MILITARY PERSONNEL: AS NOTED ABOVE, THE WAGES AND WORKING CONDITIONS OF UNIFORMED MILITARY PERSONNEL AND CAREER CIVIL SERVANTS FOLLOW THE PATTERN OF THE COLLECTIVE AGREEMENTS NEGOTIATED ANNUALLY AND ARE ENACTED BY THE BUNDESTAG.

8. IN THE AREA OF OTHER LABOR RELATIONS PROBLEMS, THERE ARE TWO CASES: ONE INVOLVING COMBAT UNITS AND THE OTHER LOGISTICAL OR SUPPORT INSTALLATIONS.

9. IN THE AREA OF COMBAT UNITS, NO CONSULTATION RIGHTS ARE GRANTED ON QUESTIONS AFFECTING MILITARY COMMAND AND DISCIPLINE.

10. IN THE AREA OF SUPPORT INSTALLATIONS, PERSONNEL COUNCILS REPRESENTING BOTH CIVILIAN AND MILITARY PERSONNEL ARE ELECTED AS IN OTHER GOVERNMENTAL INSTALLATIONS. BUT THEIR RIGHTS ARE LIMITED TO ECONOMIC, SOCIAL AND CULTURAL ACTIVITIES INVOLVING CIVILIAN AND UNIFORMED MILITARY PERSONNEL. THE PRINCIPLE FOLLOWED IS THAT ALL MATTERS INVOLVING DISCIPLINE AND COMMAND ARE MATTERS OF NATIONAL SECURITY AND NOT SUBJECT TO NEGOTIATION. UNIFORMED MILITARY PERSONNEL WHO ARE ELECTED TO THE PERSONNEL COUNCILS OF SUPPORT INSTALLATIONS ARE ALSO BOUND BY THE LIMITATIONS PROVIDED FOR OMBUDSMEN OF COMBAT UNITS.

11. THE UNIFORMED MILITARY PERSONNEL IN COMBAT UNITS WHOSE RIGHTS AND DUTIES ARE DEFINED IN THE UNIFORMED MILITARY PERSONNEL LAW (SOLDATENGESETZ), HAVE A TYPE

OF SPECIAL REPRESENTATION NOT RELATED TO THE PERSONNEL
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COUNCILS OR TRADE UNIONS. THIS SYSTEM PROVIDES FOR THE
ELECTION OF OMBUDSMEN (VERTRAUENSMAENNER). THE RIGHTS
AND DUTIES OF THESE OMBUDSMEN ARE DEFINED IN THE LAW.

12. ANSWERS TO THE QUESTIONS LISTED IN PARAGRAPH 4
OF REFTEL ARE AS FOLLOWS:

A) RIGHT TO ORGANIZATION: ARTICLE 9 OF THE FRG BASIC
LAW (CONSTITUTION) GUARANTEES FREEDOM OF ASSOCIATION.
THE MINISTRY OF DEFENSE HAS ISSUED AN ORDER TO THE
VARIOUS MILITARY COMMANDS INFORMING COMMANDERS AND
UNIFORMED MILITARY PERSONNEL ABOUT THE EXISTENCE OF
THIS CONSTITUTIONAL RIGHT.

B) ORGANIZATIONS INVOLVED: THE MINISTRY OF DEFENSE
RECOGNIZES TWO EMPLOYEE ORGANIZATIONS: THE ARMED
FORCES ASSOCIATION (BUNDESWEHRVERBAND), WHICH CLAIMS
A MEMBERSHIP OF ABOUT 250,000, AND THE DGB PUBLIC
SERVICES AND TRANSPORT WORKERS UNION (GEWERKSCHAFT
OEFFENTLICHE DIENSTE, TRANSPORT UND VERKEHR - OETV),
WHICH CLAIMS AN ESTIMATED 2,000 TO 5,000 UNIFORMED
MILITARY PERSONNEL AS MEMBERS. (THE OETV HAS CREATED
A SPECIAL DIVISION, THE "DIVISION FOR SOLDIERS,
INSTALLATIONS AND ADMINISTRATION OF THE GERMAN ARMED
FORCES AND NATO FORCES STATIONED IN THE FRG" (ABTEI-
LUNG SOLDATEN, BETRIEBE UND VERWALTUNGEN DER BUNDES-

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WEHR, STATIONIERUNGSSTREITKRAEFTE), TO COORDINATE ITS
ACTIVITIES INVOLVING UNIFORMED MILITARY PERSONNEL.)
THIS VERTICAL OR INDUSTRIAL TYPE UNION CLAIMS A TOTAL
MEMBERSHIP OF 999,771. IT IS THE SECOND LARGEST TRADE
UNION IN THE FRG AND IS AFFILIATED TO THE PUBLIC
SERVICES INTERNATIONAL (WHICH ALSO INCLUDES AMERICAN
UNION AFFILIATES SUCH AS THE AMERICAN FEDERATION OF
STATE, COUNTY AND MUNICIPAL EMPLOYEES). THE PRESIDENT
OF THIS UNION, HEINZ KLUNCKER, IS ALSO THE PRESIDENT
OF THE PUBLIC SERVICES INTERNATIONAL.

C) EXTENT OF ORGANIZATION: AS INDICATED IN B), THE
NUMBER OF UNIFORMED MILITARY PERSONNEL, WHO HAVE
JOINED THE UNION, IS VERY SMALL, WITH MOST OF THE
ORGANIZED UNIFORMED MILITARY PERSONNEL BELONGING TO THE
ARMED FORCES ASSOCIATION (BUNDESWEHRVERBAND), WHICH IS
A PROFESSIONAL ASSOCIATION THAT ORGANIZES PREDOMINANTLY
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CAREER MILITARY PERSONNEL.

D) NATURE OF COLLECTIVE BARGAINING RELATIONSHIP: AS
INDICATED IN PARAGRAPH 4, COLLECTIVE BARGAINING IS
LIMITED TO THE NEGOTIATION OF COLLECTIVE CONTRACTS
FOR CIVILIAN, HOURLY PAID AND MONTHLY SALARIED
PERSONNEL, WHICH ARE NEGOTIATED JOINTLY BY REPRESENTATIVES OF THE FEDERAL, STATE AND MUNICIPAL
GOVERNMENTS WITH RECOGNIZED PUBLIC SERVICE UNIONS.

THE WAGE INCREASE PROVISIONS AND OTHER IMPROVEMENTS
ARE EXTENDED TO PERMANENT CIVIL SERVANTS (BEAMTE)
AND TO UNIFORMED MILITARY PERSONNEL BY BUNDESTAG

ACTION.

THE COLLECTIVE CONTRACTS AND THE SUBSEQUENT BUNDESTAG ENACTMENTS ARE IN WRITING.

CAREER UNIFORMED MILITARY PERSONNEL HAVE THE SAME LEGAL STATUS AS PERMANENT CIVIL SERVANTS. THEREFORE, THEY CANNOT ENGAGE IN COLLECTIVE BARGAINING OR STRIKE BUT CAN LOBBY WHEN THE GOVERNMENT IS IN THE PROCESS OF EXTENDING WAGE INCREASES AND WORKING CONDITIONS PROVIDED IN NEW COLLECTIVE AGREEMENTS NEGOTIATED FOR HOURLY PAID PERSONNEL AND MONTHLY SALARIED PERSONNEL TO CAREER CIVIL SERVANTS AND UNIFORMED MILITARY PERSONNEL. THE CIVIL SERVICE LAW REQUIRES THAT REPRESENTATIVES OF THE APPROPRIATE PUBLIC SERVICE UNIONS AND ASSOCIATIONS BE CONSULTED BEFORE THE GOVERNMENT PRESENTS LEGISLATION TO THE BUNDESTAG INCREASING SALARIES OR FRINGE BENEFITS OF PERMANENT CIVIL SERVANTS AND UNIFORMED MILITARY PERSONNEL. REPRESENTATIVES OF THESE EMPLOYEE ORGANIZATIONS ARE ALSO INVITED TO TESTIFY BY THE APPROPRIATE BUNDESTAG COMMITTEES ACTING ON CIVIL SERVICE PAY AND WORKING CONDITIONS.

E) SCOPE OF BARGAINING: WHILE UNIFORMED MILITARY PERSONNEL RECEIVE BASICALLY THE SAME SALARY AND WORKING CONDITIONS AS PERMANENT CIVIL SERVANTS, SPECIAL PROBLEMS SUCH AS CONDITIONS OF WORK, HOURS OF WORK, FOOD SERVICE, ETC. ARE REGULATED BY THE FEDERAL MINISTRY OF UNCLASSIFIED

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DEFENSE AFTER CONSULTATION WITH REPRESENTATIVES OF THE BUNDESWEHRVERBAND AND THE OETV. MINISTRY OF DEFENSE REPRESENTATIVES CLAIM THAT THIS SYSTEM OF CONSULTATION AND COOPERATION HAS DEVELOPED WITHOUT SERIOUS PROBLEMS AND HAS BEEN CHARACTERIZED BY A SPIRIT OF COMPROMISE ALTHOUGH MANAGEMENT MAINTAINS ITS ULTIMATE RIGHT TO MAKE DECISIONS.

A SPECIAL SYSTEM OF HANDLING GRIEVANCES AND COMPLAINTS APPLIES TO COMBAT UNITS WHERE VARIOUS GROUPS OF UNIFORMED MILITARY PERSONNEL, FOR EXAMPLE, PRIVATES, NON-COMMISSIONED OFFICERS, AND COMMISSIONED OFFICERS ELECT THEIR REPRESENTATIVES OR OMBUDSMEN (VERTRAUENSLEUTE) TO ACT AS A LIAISON BETWEEN UNIFORMED MILITARY PERSONNEL AND COMMANDING OFFICERS.

IN NON-COMBAT ADMINISTRATIVE OR LOGISTICAL SUPPORT INSTALLATIONS, THE SYSTEM OF PERSONNEL REPRESENTATION IN PERSONNEL COUNCILS (PERSONALRAETE) ELECTED THROUGHOUT THE GOVERNMENT IN ACCORDANCE WITH THE FEDERAL

PERSONNEL REPRESENTATION LAW (PERSONALVERTRETUNGSGESETZ) APPLIES. WITH SOME MODIFICATIONS, THESE PERSONNEL COUNCILS RESEMBLE THOSE IN OTHER GOVERNMENTAL INSTITUTIONS AND INCLUDE REPRESENTATIVES OF MONTHLY SALARIED EMPLOYEES (ANGESTELLTE), HOURLY PAID WORKERS (ARBEITER), PERMANENT CIVIL SERVANTS (BEAMTE),

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AS WELL AS REPRESENTATIVES OF UNIFORMED MILITARY PERSONNEL.

THE RIGHTS OF UNIFORMED MILITARY PERSONNEL REPRESENTATIVES ELECTED TO THESE COUNCILS ARE LIMITED TO THOSE FUNCTIONS WHICH OMBUDSMEN HAVE IN COMBAT UNITS. FOR EXAMPLE, THEY HAVE NO CODETERMINATION RIGHTS IN CERTAIN SECTORS OF PERSONNEL POLICY GRANTED TO CIVILIAN EMPLOYEE REPRESENTATIVES UNDER THE PERSONNEL REPRESENTATION

TATION LAW.

F) PROTECTION OF THE RIGHTS OF COMMAND: THE UNIFORMED MILITARY PERSONNEL LAW (SOLDATENGESETZ) AND THE MINISTRY OF DEFENSE IMPLEMENTING REGULATIONS AND DECREES RESTRICT THE ROLE OF UNIONS TO REPRESENTING THEIR MEMBERS' INTERESTS ON ECONOMIC, SOCIAL AND CULTURAL ISSUES. IN THE CASE OF OMBUDSMEN (VERTRAUENS-UNCLASSIFIED

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LEUTE) IN COMBAT UNITS, WHO ARE INVOLVED IN ASSISTING IN THE SETTLEMENT OF GRIEVANCES AND DISPUTES, THE LAW GRANTS CONSULTATION RIGHTS IN CASE OF DISCIPLINARY PROCEEDINGS AND ON OTHER ISSUES INCLUDING FOOD SERVICE, PX'S AND COMMISSARIES.

THE MINISTRY OF DEFENSE MAINTAINS THE PRINCIPLE THAT THE ABOVE SYSTEM OF LABOR RELATIONS IS SUBORDINATE TO THE PRINCIPLE THAT THE RIGHTS OF COMMAND TO ACT AND TO MAINTAIN MILITARY DISCIPLINE MUST BE OBSERVED FOR NATIONAL SECURITY REASONS. IN OTHER WORDS, THE PRESENT PERSONNEL RELATIONS SYSTEM ATTEMPTS TO ADAPT THE PERSONNEL REPRESENTATION SYSTEM FOR PUBLIC SERVICE EMPLOYEES TO UNIFORMED MILITARY PERSONNEL IN THE FRG WITHOUT PREJUDICING THE BASIC MILITARY FUNCTIONS OF THE GERMAN ARMED FORCES.
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